

ARRA Recovery Zone Bonds



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Types of Recovery Bonds

1) Recovery Zone Economic Development Bond

- Public Sector infrastructure
- Reduced interest rate through 45% federal Interest rate rebate but bonds are not tax exempt.
- Allocated based on unemployment and other economic factors
- County can reallocate a portion of their allocation to other governmental entities within their jurisdiction.
- Requires passage of a resolution prior to October 1st to create the “Recovery Zone” and any reallocations.
- Bonds must be issued by December 31, 2010
- There are specific reporting requirements on a quarterly basis
- Some Possible uses:
 - Water and Sewer projects or districts
 - Remodeling of Public Buildings for public use.
 - Streets and Roads, airport facilities intended for public use.
 - Financing of jobs training programs.

Types of Recovery Bonds

2) Recovery Zone Facility Bond

- Private Sector infrastructure and facilities
- Structured like an Industrial Development Bond without the requirement of a project meeting the definition of “industrial”
- Tax exempt interest bond
- Allocated based on unemployment and other economic factors
- Requires passage of a resolution prior to October 1st to create the “Recovery Zone” along with a list of intended uses.
- Bonds must be issued by December 31, 2010
- There are specific reporting requirements on a quarterly basis
- Some Possible uses:
 - Remodeling of public facilities for lease to private sector entities
 - Construction of new private sector facilities
 - Remodeling of private sector facilities

Important timelines

If you have an allocation:

- Before October 1, 2009
 - Pass a resolution defining the boundaries of your Economic Recovery Zone
 - Send to the Department of Administration a copy of the resolution.
 - Send to the Department of Administration a copy of the **County Bonding Authority Waiver/Reallocation Form** delineating what funds you are releasing, utilizing and reallocating.
- Before December 31, 2010
 - All bonds must be issued under this program
- Progress reports are due on:
 - January 1, 2010
 - April 1, 2010
 - July 1, 2010
 - October 1, 2010
- Missing the October 1st Deadlines waives all of the allocation.

Important timelines

If you do not have an allocation:

- As soon as possible
 - Pass a resolution defining the boundaries of your Economic Recovery Zone
 - Send to the Department of Administration a copy of the resolution.
 - Send to the Department of Administration a copy of the **County Bonding Authority Application Form** delineating what amount of bonding authority you are requesting along with a description of the projects.

Important Notes !

- This is a Bond Authorization not a Grant!
- No legal restrictions or processes are waived.
 - Your overall bond limit caps still apply.
 - A vote of the people may be required.
 - Your cost (interest rate) will be determined by your county's bond rating.
 - Normal RFP & bidding rules apply.
- If you choose to allocate a portion to another entity in your county, those bonds are not inherently your responsibility.
- Economic Recovery Development Bonds are Subsidized (public sector), the Facility bonds (private sector use) are not.
- ***Talk to your bond counsel for specific advise about your projects.***

• **County Bonding Authority Waiver/Reallocation Form**

• To:

• Montana Department of Administration
• Director's Office of Finance and Budget
• Sam W. Mitchell Bldg., Rm. 176
• P. O. Box 200107
• 125 Roberts St.
• Helena, MT 59620

• From: _____ County, Montana

• I, _____, as the duly qualified and acting Chairman of the Board of County Commissioners of _____ County,
Montana (the "County"), hereby acknowledge that the County, pursuant to Section 1400U-1(a)(3)(A) of the American Recovery and Reinvestment Act of 2009 (the "Act"), waives or
reallocates its allocations of Recovery Zone Economic Development Bonds and Recovery Zone Facility Bonds (each as defined in the Act) as follows:

• **Allocation of Recovery Zone Economic Development Bonds**

• The County:

• Waives _____% and

• Reallocates _____% to _____

• (*Issuer*)

• of the amount of Recovery Zone Economic Development Bonds allocated to the County (as provided in Internal Revenue Service Notice 2009-50). Any allocated amount not provided
above will be deemed waived by the County.

• **Allocation of Recovery Zone Facility Bonds**

• The County:

• Waives _____% and

• Reallocates _____% to _____

• (*Issuer*)

• of the amount of Recovery Zone Facility Bonds allocated to the County (as provided in Internal Revenue Service Notice 2009-50). Any allocated amount not provided above will be
deemed waived by the County.

• All waived amounts provided for above will be reallocated by the Department of Administration in consultation with the Department of Commerce.

• Dated:

• _____ County,

• Montana

• (SEAL)

• _____
Chair, Board of County Commissioners

• Attest:

• _____
Clerk and Recorder

• **Form of Recovery Zone Designation Resolution**

• RESOLUTION NO. _____

• A RESOLUTION DESIGNATING _____
• AS A RECOVERY ZONE FOR PURPOSES OF THE
• AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009

• WHEREAS, the American Recovery and Reinvestment Act of 2009 ("ARRA") was signed into law on February 17, 2009, which includes the following Statement of Purposes: (1) to preserve and create jobs and promote economic recovery; (2) to assist those most impacted by the recession; (3) to provide investments needed to increase economic efficiency by spurring technological advances in science and health; (4) to invest in transportation, environmental protection and other infrastructure that will provide long-term economic benefits; and (5) to stabilize State and local government budgets, in order to minimize and avoid reductions in essential services and counterproductive State and local tax increases; and

• WHEREAS, the ARRA provides that gross income does not include interest on any bond designated by the issuer thereof as a recovery zone economic development bond or a recovery zone facility bond ("Recovery Zone Bonds"); and

• WHEREAS, the ARRA provides that the proceeds of recovery zone economic development bonds must be used for qualified economic development purposes, i.e. - expenditures for purposes of promoting development or other economic activity in a recovery zone; and

• WHEREAS, the ARRA provides that ninety-five (95%) or more of the net proceeds of a recovery zone facility bond must be used for recovery zone property which is in a recovery zone and is in the active conduct of a qualified business by the taxpayer in such zone; and

• WHEREAS, the ARRA provides with respect to recovery zone economic development bonds and recovery zone facility bonds that a recovery zone is (1) any area designated by the issuer of such bonds as having significant poverty, unemployment, rate of home foreclosures, or general distress, (2) any area designated by the issuer of such bonds as distressed by reason of the closure or realignment of a military installation pursuant to the Defense Base Closure and Realignment Act of 1990, and (3) any area for which a designation as an empowerment zone or renewal community is in effect; and

• WHEREAS, Recovery Zone Bonds are designed to provide tax incentives for State and local governmental borrowing at lower borrowing costs to promote job creation and economic recovery targeted to areas particularly affected by employment decline; and

• WHEREAS, the ARRA provides that Recovery Zone Bonds shall be subject to volume cap allocations, any portion of which received by a county or large municipality may be waived by such county or large municipality and re-allocated pursuant to the ARRA and Montana House Bill 645, adopted by the 2009 State Legislature, by the Montana Department of Administration (the "Department") in any reasonable manner as the Department deems in good faith, in its discretion, to be reasonable; and

• WHEREAS, Internal Revenue Service Notice 2009-50, provides, in part, that issuers designate eligible recovery zones based on certain specified criteria and that issuers that receive volume cap allocations for Recovery Zone Bonds may make designations of recovery zones in any reasonable manner as such issuer shall determine in good faith, in its discretion.

• NOW, THEREFORE, at a regular meeting of the governing body of _____, duly called, noticed, and held on the ____ day of _____ 2009, upon motion duly made and seconded, it is resolved, as follows:

• 1. In order for _____ (the "Issuer") to avail itself of the economic development stimulus provisions contained in the ARRA, the Issuer, after careful consideration of all economic indicators in _____ including but not limited to, loss of employment, rate of home foreclosures, loss of retail sales and declining tax revenues, in its discretion and in good faith, and in compliance with Section 1400U-1(b) of the Internal Revenue Code of 1986, hereby designates _____, as a recovery zone (the "Recovery Zone").

• 2. The Recovery Zone has suffered significant unemployment, a large increase in home foreclosures, and general economic distress.

• 3. All actions of the officers, agents and employees of any issuer of Recovery Zone Bonds that are in conformity with the purposes and intent of this Resolution, whether taken before or after the adoption hereof, are hereby ratified, confirmed and adopted.

• 4. Issuer shall administer and serve as issuer of any Recovery Zone Bonds for which an allocation is granted to Issuer, unless otherwise allocated by Issuer or the Department in accordance with ARRA.

• 5. This Resolution shall be in full force and effect from and after its final passage and approval according to law.

• PASSED AND ADOPTED by the _____ of _____, _____, 2009.